

Kansas Dental Board Members

Allen Reavis, DDS, President Susan Schneweis, Vice President Jane Criser, RDH, Secretary

1

1

2

3

Stephen Brotherson, DDS Karen Callanan, DDS Stephen Haught, DDS

Robert Henson, DDS Nick Rogers, DDS Angie Wilson, RDH

(Control of the cont

Volume 1, Issue 1 Summer 2004

Inside this issue:

Message from the President

Professional Liability Insurance

Address Changes Dental Renewals

Restrictions of Nonlicensed Persons

Yellow Page 2 Advertising

Practice Arrangements

Board Actions

Dentist License 4 Renewals

Message from the President

As this newsletter goes to press, the Kansas Dental Board is actively working on a number of matters of great significance to the practice of dentistry and dental hygiene in our state. Of special interest to most, we are continuing to develop and refine revisions to existing regulations having to do with sedation, and are beginning to review proposals to update those for sterilization. The process is a deliberate one with careful attention to detail and the desire to streamline, clarify and improve these regulations. In addition the Board is developing a new regulation that addresses mobile dentistry and portable dental operations. Both the Kansas Dental Association and the Kansas Dental Hygiene Association are providing input on the development of this new regulation. In all cases there will be the opportunity for broad public input.

As most of you may know, the terms of two dentists and one dental hygienist on the KDB expired the end of April. The Governor has not made her appointments for these vacancies as yet, but the Kansas Statutes provide that the members whose terms have expired will continue to serve until new appointees are named. We anticipate appointments from the Governor in the very near future.

Please note carefully the information in this newsletter having to do with various practice arrangements that may run afoul of the Kansas Dental Act. The Board is receiving an alarming number of inquiries and expressions of concern relating to corporate dentistry, franchise dentistry, and other practice arrangements that may be inconsistent with current statutes. While official complaints arising from these concerns remain confidential, everyone needs to understand that the Dental Board will vigorously shoulder its responsibility to enforce the law. If practice arrangements that develop outside the parameters of the law can not be corrected through the adjudication of complaints the Board will not be reluctant to seek revisions to the Dental Act that protect the public from practice arrangements that violate the historical values associated with excellent dental care in Kansas. I have already asked the members of the Board and the KDA leadership to review this issue and be prepared to move forward with proposals to better define acceptable practice structures. The goal of the Board, as I see it, should always remain to protect the public, while allowing the providers the most freedom possible to practice their profession.

Professional Liability Insurance

During the recent session, the Kansas Legislature inserted a provision into a bill that was signed by the Governor that requires that dentists carry professional liability insurance. The Kansas Dental Association collaborated on the language of this bill. There are no minimums required. Dentists who are only doing charity work in clinics are exempted.

Page 2 Kansas Dental Board

Yellow Page Advertising and Dental Specialties

Implantology is NOT a recognized specialty in Kansas, and as such, dentists should not place advertising in phone book yellow pages or other advertising that establish implantology as a specialty distinct from or comparative to other recognized dental specialties in Kansas. Implant dentistry or implantology may be stated in or referred to in the content of an advertisement, but not singled out in the heading as a specialty on par with other recognized specialties. The Kansas Dental Board is constantly working with the publishers of phone book yellow pages asking that they not solicit ad placement from dentists identifying implantology as a specialty.

Recognized specialties in Kansas are:
Endodontics
Oral and Maxillofacial Surgery
Orthodontics
Pediatric Dentistry
Periodontics
Prosthodontics

Keep the KDB informed of Our Address

KSA 65-1432 requires that every licensed dentist and hygienist must inform the Board of a change of their practice location within 30 days of such a change. The penalty for failure to notify the Board of a change in practice location is a fine of \$50.00.

Restrictions of Nonlicensed Persons

A nonlicensed person shall not perform coronal scaling as part of a prophylaxis without first obtaining a certificate demonstrating successful completion of an approved course of instruction. The supervising dentist shall not permit a nonlicensed person to perform coronal scaling as part of a prophylaxis until that person's coronal scaling course has been completed. A certificate demonstrating successful completion of an approved course of instruction, must be prominently posted at the location where the coronal scaling will be performed and a copy submitted to the Kansas Dental Board Office. A nonlicensed person shall not perform coronal scaling as part of a prophylaxis on a patient who is under local or general anesthesia. In addition, a nonlicensed person may perform coronal scaling only under the direct supervision of a supervising dentist licensed and practicing in Kansas.

The Board is more closely monitoring dentists that do not comply with these restrictions. If you would like to see more regulations pertaining to Dental Auxiliaries, please refer to our website under legislative, where you will find a complete list of all of our statutes and regulations. For a hard copy of the book, please submit \$10 to the Board office with a request and one will be mailed to you promptly.

Volume 1, Issue 1 Page 3

Concerns Surface on Practice Arrangements

The Kansas Dental Board has received information indicating that a number of dentists have engaged or intend to engage in a Kansas dental practice arrangement that will involve one or more individuals or entities that are non-dentists or dentists not licensed by the Board to practice dentistry in Kansas. This is a partial list of the provisions in the Kansas Dental Act and the Board's regulations (collectively referred to herein as the "Dental Law") that you need to be aware of and carefully consider.

- 1. K.S.A. 65-1425 defines "proprietor" and states that a dentist who enters into certain financial arrangements with a proprietor may be disciplined. It is important to carefully review and understand these restrictions.
- 2. K.S.A. 65-1425 generally prohibits corporations, other than professional corporations, from practicing dentistry. This includes PA's and LLC's.
- 3. K.S.A. 65-1435(d) limits the ability of a dentist licensed in Kansas to conduct a dental office, alone or with other dentists licensed in Kansas, if the dentist is not present in the office or each office a majority of the time the office or each office is being operated.
- 4. K.S.A. 65-1435(e) prohibits the franchise practice of dentistry.
- 5. K.S.A. 65-1436(a)(7) provides that a division of fees with a person bringing or referring a patient without the patient's knowledge could subject the dentist to discipline.
- 6. K.S.A. 65-1436(a)(16) provides that certain misleading or false reimbursement claims forms or other billing practices can subject a dentist to discipline. A dentist has responsibility for his or her claims and billing practices even if others prepare the claims or direct the actual billing practices.
- 7. K.S.A. 65-1436(a)(17) provides that failure to keep adequate records can subject a dentist to discipline. See also K.A.R. 71-1-15 regarding specific requirements for dental records. Again, a dentist is generally responsible for his or her dental records even if the function is delegated to others.
- 8. K.S.A. 65-1437 contains specific prohibitions against certain types of advertising. Other restrictions on advertising are scattered throughout the Dental Law. See for instance K.S.A. 65-1436(a)(14), K.S.A. 65-1426, and K.S.A. 65-1427(a). A dentist who delegates the responsibility of advertising to a third person will remain responsible to see that the advertising does not violate the Dental Law. It has been the Board's experience that non-dentists are not always familiar with the provisions of the Dental Law.
- 9. There are specific limitations in the Dental Law, including at K.S.A. 65-1423(a)(8), regarding what dental services non-licensed dental assistants may perform. A dentist who allows his or her patients to be seen by a dental assistant will be responsible to see that this provision of the law is not violated.
- 10. K.A.R. 71-1-18 contains a comprehensive set of requirements dealing with sterilization and infection control. Ultimately, it is the responsibility of the dentist who practices in the office to see that the office complies with these requirements.

This is not intended to be a comprehensive list. It is intended to be a place for you and or your attorneys to start when evaluating whether your practice arrangement may run afoul of provisions of the Dental Law.

The Board feels that the Dental Law places many requirements and limitations on a dental practice. The Board also feels the dentist, as the licensed professional, must be responsible for compliance with those requirements and limitations. Such obligations come with the privilege of practicing a healthcare profession in Kansas. Therefore, any time key components of a dental office operation are delegated to non-licensees, potential problems exist for the dentist(s) in the practice. Whether those potential problems turn into actual violation of the Dental Law often depends as much on how operations actually occur on a day-to-day basis as what might be in the contract defining how the operations should occur. Specific questions should be submitted to the Board in writing.



Serving the Dental Community.

Kansas Dental Board Office Staff
Larry Williamson, Executive Director
Bobbi Silver, Administrative Officer
Rebekah Gonzales, Sr. Admin Assistant

900 SW Jackson, Room 564-S Topeka, KS 66612

Phone: 785-296-6400 Fax: 785-296-3116 E-mail: info@dental.state.ks.us Web Address: www.accesskansas.org/kdb

Board Actions

Donald Pfuetze, DDS – The Board has entered an order assessing a \$500 administrative fine to Donald Pfuetze, DDS of Topeka, KS.

Steven Jones, DDS – The Board has issued an order fining Stephen Jones, DDS of Emporia, KS \$2500 for failure to keep appropriate records in periodontal cases and failure to attempt conservative treatment prior to periodontal surgery.

Ryan Louden, DDS - Ryan Louden, DDS of Liberal, Kansas was disciplined by the Board entering an order assessing him an administrative fine of \$2500.00

Timothy Woods, DDS - The Board has entered an order assessing a \$500 administrative fine against Timothy Woods, DDS of Wamego, KS for failure to obtain diagnostic materials in orthodontic cases.

Dentist License Renewals

Please be aware that all licensed dentists will need to <u>renew your licenses by December 1, 2004.</u> If you do not receive your renewal packet the beginning of October, please call our office to verify that we have a correct mailing address for you.